

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

ROBERT ASHWORTH,

Plaintiff,

vs.

KB ORTHOPEDICS, INC., KARL  
BUHR, MEDICAL DEVICE  
BUSINESS SERVICES, INC.,  
DEPUY SYNTHES SALES, INC.,  
JOHNSON & JOHNSON SERVICES,  
INC., JOHNSON & JOHNSON, and  
John Does 1–10,

Defendants.

CV 22–161–M–DLC

ORDER

Before the Court is United States Magistrate Judge Kathleen L. DeSoto's Findings and Recommendations regarding Defendants' removal from the Eleventh Judicial District Court of Flathead County, Montana, to the United States District Court for the District of Montana. (Doc. 20.) Judge DeSoto recommends: (1) because KB Orthopedics is not fraudulently joined and the parties are not completely diverse, the Court lacks subject matter jurisdiction and should therefore remand this case to the Eleventh Judicial District Court of Montana, Flathead County; and (2) Plaintiff's expedited unopposed motion for a status conference or stay of the scheduling order (Doc. 19) be denied as moot. (Doc. 20 at 13.) The

Court agrees and will adopt Judge DeSoto's Findings and Recommendations in full.

A party is only entitled to de novo review of those findings to which he or she specifically objects. 28 U.S.C. § 636(b)(1)(C). In the absence of an objection, this Court reviews findings for clear error. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error review is "significantly deferential" and exists when the Court is left with a "definite and firm conviction that a mistake has been committed."

*United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

Judge DeSoto's Findings and Recommendation notified the parties of their right to object (Doc. 20 at 14), but neither party objected.

Reviewing Judge DeSoto's opinion for clear error, the Court finds none.

Accordingly, IT IS ORDERED that Judge DeSoto's Findings and Recommendations (Doc. 20) is ADOPTED IN FULL.

IT IS FURTHER ORDERED that this case is REMANDED to the Eleventh Judicial District Court of Montana, Flathead County.

IT IS FURTHER ORDERED that Plaintiff's expedited unopposed motion for a status conference or stay of the scheduling order (Doc. 19) is DENIED as moot.

DATED this 13th day of October, 2023.

A handwritten signature in blue ink, reading "Dana L. Christensen". The signature is written in a cursive style with a large initial "D" and a period after the first name.

---

Dana L. Christensen, District Judge  
United States District Court